IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.18 OF 2006
IN
EXECUTION APPLICATION NO.30 OF 1997
IN
SUMMARY SUIT NO.2108 OF 1994

Vijay Kumar Gupta ..Plaintiff.

Vs.

Eskay Enterprises & Ors.

And
Smt.S. Gandhi
And
Shri Navin B. Gandhi
And
Shri Kunal B. Gandhi ..Defendants.
And
Bank of Baroda & Anr. ..Respondents.

Plaintiff present in person.

Ms.Shilpa Shelke i/b.M/s.Kedwant & Co. for Respondent No.1 bank.

**CORAM : S.J. VAZIFDAR, J.**
**DATED : 14TH FEBRUARY, 2006**

**P.C. :**

The Plaintiff, judgment debtor has taken out this Chamber Summons for an order permitting the sale to one Madhukar Agarwal for a sum of Rs.8,25,000/-. The Plaintiff obtained the decree in the sum of Rs.19,21,723/- together with interest on 22.7.1996.

2. Thereafter, the Plaintiff has been attempting to execute the decree. A warrant of attachment dated 17.2.1997 was issued in respect of the said flat. Minutes of the order were entered into between the Plaintiff and Bank of Baroda, whereby, it was agreed that the Plaintiff would be entitled to only 30% of the sale proceeds and Bank of Baroda will be entitled to only 70%. An order in terms of the minutes of the order was passed on 22.1.2003.

3. Thereafter, the flat was auctioned on two occasions in 2004 and in 2005. On the first occasion, the highest bid was Rs.5,00,000/-. On the second occasion, there were no bidders. The said Agarwal by his letter dated 4.8.2005 offered a sum of Rs.8,25,000/- for the said flat.

4. The Defendants are absent. They have not procured any higher offer. In the circumstances, the relief claimed is reasonable and fair.

5. In the circumstances, the Chamber Summons is made absolute in terms of prayer clauses (a), (b) and (c).

6. In the event of prayer (c) operating in favour

of the Plaintiff, the same shall be conditional upon the Plaintiff first paying a sum of Rs.5,77,500/- to the Bank of Baroda, being 70% of the value of the said flat.

Chamber Summons disposed of accordingly.

All parties are directed to act on an authenticated copy of this order.